



**FOX TELEVISION STATIONS, INC.**

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*A Unit of Fox Television*

Shaun Maher, Esq.  
Federal Communications Commission  
Room 2-A820  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: MB Docket No. 03-15

Dear Mr. Maher:

WITI License, Inc. ("WITI"), permittee of television station of WITI-DT, Milwaukee, Wisconsin, File No. BPCDT-19991004ABL, respectfully requests that the Commission waive the July 1, 2005 "use-it-or-lose-it" deadline for full-power DTV operation adopted by the Commission at paragraph 78 of the *Second DTV Periodic Review Report and Order of the Commission's Rules and Policies Affecting the Conversion To Digital Television*, MB Docket No. 03-15, RM 9832, released September 7, 2004 (19 FCC Rcd 18,279), pursuant to the procedure set out in Public Notice DA 05-1636, released June 15, 2005.

WITI is one of Fox Television Stations, Inc.'s ("Fox") 35 owned and operated stations. WITI-DT currently operates at low power pursuant to Special Temporary Authority ("STA"), File No. BMDSTA-20040507ABP, providing the requisite coverage of Milwaukee. By this letter, extensions of WITI-DT's STA and the above-referenced Construction Permit also are requested.

In January 1998 WITI commissioned from an independent structural consultant, Shoolbred Engineers, Inc. ("Shoolbred"), a structural analysis of its existing antenna tower, specifically to determine whether the tower required strengthening in order to support the addition of WITI's DTV transmission equipment (the "Shoolbred Study"). A copy is included with the paper filing of this letter.

The Shoolbred Study recommended certain remedial work to strengthen WITI's tower. A third-party contractor, Nationwide Tower, Inc. ("Nationwide"), was retained to complete this work, pursuant to plans prepared by Shoolbred. The work proceeded slowly, due in part to the fact that tower work is impossible during Wisconsin's long winter months, but also on account of Nationwide's inadequate performance. Nationwide was able to add a low-power DTV antenna to WITI's studio tower, enabling the licensee to meet its May 1, 2002 DTV buildout deadline; however, in 2002, after two summers had elapsed without Nationwide's completing the project, WITI relieved Nationwide of its responsibilities under its contract.

A second contractor, Installation Services, Inc. ("Installation Services"), was retained to complete the work. In the interim, Robert Shoolbred had retired; so WITI had to retain another independent engineering consultant, Tower Engineering Professionals, Inc. ("TEP") to conduct Shaun Maher, Esq.  
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periodic inspections to ensure that Installation Services completed the work in accordance with Shoolbred's specifications. Copies of TEP's inspection reports are too voluminous to attach hereto, but are included with the paper filing of this letter

Subsequently, one of WITI's tenants on the tower, seeking to reconfigure its equipment, commissioned TEP to perform a structural evaluation of the feasibility of that proposal. TEP found that, even with the improvements recommended in the Shoolbred Study, WITI's tower was likely to be significantly overstressed by the proposed reconfiguration—much more than would have been expected based on the original Shoolbred Study.

This contradictory finding caused WITI to commission TEP to analyze its tower's current structural loading. TEP found that portions of the tower already were at theoretical maximum capacity, without the addition of WITI's full-power DTV equipment. WITI then commissioned a structural study from yet a third engineering consultant, Tower Engineering Consultants ("TEC"), to determine on which results it should rely, Shoolbred's or TEP's. TEC's analysis verified TEP's conclusion that additional structural strengthening, beyond that recommended by Shoolbred, would be necessary to bring its tower up to the standard necessary to support its full-power DTV array. This work has been commissioned, and, while it is not possible to predict a firm completion date, WITI anticipates that its full-power DTV facility will be on the air by late August or September 2005.

WITI already has committed in excess of one million dollars to its DTV installation, with additional expenditures still to be incurred. Purchase orders attached hereto are redacted as to cost figures, as this is proprietary information; however, unredacted copies of these and additional purchase orders are included with the paper filing of this letter. Fox respectfully requests that the cost figures in those documents be withheld from public inspection pursuant to Sections 0.457(d) and 0.459 of the Commission's Rules, 47 CFR Sections 0.457(d) and 0.459, as this information is proprietary and not otherwise available for public inspection.

In light of the resources already committed, time spent and progress already made toward implementation of full-power DTV, WITI's good faith cannot be called into question. As additional evidence of Fox's good faith, the Commission merely need look to its overall in implementing DTV to date:

- Twenty-five of Fox's owned and operated stations have met all applicable deadlines and currently are operating at full facilities;

- Of Fox's remaining ten owned and operated station, eight are operating low-power DTV facilities pursuant to STA and will be fully operational within this calendar year, one is operating a low-power DTV facility and will meet its full-power deadline of July 1, 2006, and one, a satellite station that does not have a DTV channel allotment, will "flash cut" to DTV;
- All of Fox's DTV facilities implemented dynamic PSIP in a timely fashion;

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- Fox has granted digital carriage rights to numerous multichannel video providers nationwide on behalf of all of its owned and operated stations and includes digital carriage provisions in all of its retransmission consent agreements.

As the foregoing illustrates, Fox's commitment to DTV implementation cannot be questioned, and we ask that the Commission find the modest waiver of time sought for WITI-DT's full-power operation to be justified.

I hereby certify that no party to this extension request is subject to denial of federal benefits pursuant to § 5301 of the Anti-Drug Abuse Act of 1998, 21 USC § 862.

Respectfully submitted,

Molly Pauker

Attachments